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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,923	04/25/2001	Michael G. Foulger	2018.0060001	6526
26111	7590	09/09/2005	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			TANG, KENNETH	
			ART UNIT	PAPER NUMBER
			2195	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/840,923

Applicant(s)

FOULGER ET AL

Examiner

Kenneth Tang

Art Unit

2195

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This final action is in response to the Amendment filed on 6/17/05. Applicant's arguments have been fully considered but are moot in view of the new grounds of rejections.
2. Claims 27-44 are presented for examination.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 39-44 claim a computer useable medium that is non-statutory because it is not necessarily tangible. In the Applicant's Specification, the computer useable medium can refer to a carrier wave or other signal (*page 19, lines 11-19*). The Examiner recommends amending the claims to a "tangible medium", etc.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 27-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention:

- a. In claim 27, “a scheduling computer” (in preamble) is indefinite because it is unclear in the claim language whether this refers to the “first computer” or the “second computer”.
- b. In claim 27, “receiving a first notification from a first computer” is indefinite because it is not made clear in the claim language if the recipient is the “second computer” or if it is the “scheduling computer”. It is also unclear in the claim language if the “scheduling computer” is a separate or same computer as the “second computer”.
- c. In claim 27, “receiving a second notification from a second computer” is indefinite because it is not made clear in the claim language if the recipient is the “first computer” or if it is the “scheduling computer”. It is also unclear in the claim language if the “scheduling computer” is a separate or same computer as the “first computer”.
- d. In claim 27, “master schedule” is indefinite because it is unclear whether this is in the “first computer”, “second computer” or “scheduling computer”.
- e. Claims 33 and 39 are rejected for the same indefinite reasons.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 5. Claims 27-29, 32-35, 38-41, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu (US 6,275,575 B1) in view of Wookey (US 6,085,244).**

6. As to claim 27, Wu teaches a computer-based method of scheduling executions of programs on a plurality of computers (*see Abstract*) comprising:

(a) installing (set up and initiation) of a first program on the first computer (*col. 2, lines 43-52*);

(b) installing of a second program on the second computer, wherein the operating system of the second computer is different from the operating system of the first computer (cross-platform) (*col. 2, lines 23-32*);

(c) scheduling with a master schedule (multi-point telephone conference coordinator), wherein the updated master schedule indicates when the first program is to be executed on the first computer and when the second program is to be executed on the second computer (*col. 5, lines 45-63*); and

(d) requesting the first computer to execute the first program and requesting the second computer to execute the second program according to the updated master schedule (*col. 5, lines 45-67*).

7. Wu fails to explicitly teach having a master schedule based on the notifications.

However, Wookey teaches a remote computer monitoring system in a master/slave configuration for the monitored computers based on an indication/notification of installation (*col. 2, lines 58-64*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the remote computer monitoring system in a master/slave configuration for the monitored computers based on an indication/notification of installation to the existing master

computer network scheduling system of Wu because this would increase uptime and have higher productivity (*col. 3, lines 9-11*).

8. As to claim 28, Wu teaches wherein step (c) further comprises indicating in the master schedule that the execution of the first program depends on a condition; and step (d) further comprises requesting the first computer to execute the first program upon the occurrence of the condition (*col. 8, lines 53-62*).

9. As to claim 29, Wu teaches wherein step (c) further comprises indicating in the updated master schedule that an execution of the second program depends on an execution of the first program meeting a criterion; and step (d) comprises:

- (1) requesting the first computer to execute the first program;
- (2) receiving a result (entering PIN, for example) from the first computer; and
- (3) requesting the second computer to execute the second program if the result meets the criterion (executing if PIN is correct, for example) (*col. 3, lines 13-35*).

10. As to claim 32, Wu teaches wherein step (c) further comprises accepting at least one command from a user to define the updated master schedule (*col. 3, lines 13-26*).

11. As to claim 33, it is rejected for the same reasons as stated in the rejection of claim 27.

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12. As to claims 34-35, they are rejected for the same reasons as stated in the rejections of claims 28-29.

13. As to claim 38, it is rejected for the same reasons as stated in the rejection of claim 32.

14. As to claim 39, it is rejected for the same reasons as stated in the rejection of claim 27.

15. As to claims 40-41, they are rejected for the same reasons as stated in the rejections of claims 28-29.

16. As to claim 44, it is rejected for the same reasons as stated in the rejection of claim 32.

17. **Claims 30, 36, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu (US 6,275,575 B1) in view of Wookey (US 6,085,244), and further in view of Bowman-Amuah (US 6,606,660 B1).**

As to claim 30, Wu fails to explicitly teach the step of monitoring processor loading associated with the first and second computers and adjusting the executing sequence based on the processor loading. However, Bowman-Amuah teaches monitoring to provide load balancing over a network (*col. 92, lines 49-67*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the feature of monitoring processor loading

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associated with the first and second computers and adjusting the executing sequence based on the processor loading to the existing system of Wu because it will help conserve resources, and therefore, increase throughput of the system (*col. 92, lines 65-67 through col. 93, lines 1-4*).

18. As to claim 36 and 42, they are rejected for the same reasons as stated in the rejection of claim 30.

19. Claims 31, 37, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu (US 6,275,575 B1) in view of Wookey (US 6,085,244), and further in view of Bauchot (US 5,970,062).

20. As to claim 31, Wu teaches a master table with associated process identifier but Wu and Wookey fail to explicitly teach wherein the master table includes a priority associated with each process identifier. However, Bauchot teaches a Master Scheduler based on priority (*col. 9, lines 52-54, col. 10, lines 3-11*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the feature of a Master Scheduler based on priority with the existing Master Scheduler of Wu in view of Wookey because for one, this would allow to distinguish processes, and second, this would ensure ordering that certain processes would occur first, and certain process would occur, second, etc. (*col. 10, lines 3-32*).

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21. As to claim 37 and 43, they are rejected for the same reasons as stated in the rejection of claim 31.

Response to Arguments

22. Applicant's arguments have been fully considered but are now moot in view of the new grounds of rejections.

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- JP 08221479A teaches having a master schedule with respects to installation with the advantage of preventing delays.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Tang whose telephone number is (571) 272-3772. The examiner can normally be reached on 8:30AM - 6:00PM, Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kt
9/1/05


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